

MINUTES OF THE
IDAHO STATE BOARD OF PHARMACY

MARCH 5, 2004
AMERITEL INN-BOISE TOWNE SQUARE
BOISE, IDAHO

Chairperson Dr. Marilyn Silcock called the meeting at order at 9:00 A.M. Also in attendance were Board members Kitty Gurnsey; Mike Merrill R.Ph.; Frank Casabonne R.Ph. and Dwayne Sheffler R.Ph. Also present were Richard Markuson, Executive Director; Fred Collings, Senior Investigator; Jan Atkinson, Senior Compliance Officer; Kent Nelson, Deputy Attorney General and Cheri Bush, Deputy Attorney General.

Kitty Gurnsey made a motion to accept the Board minutes for the November 22, 2003 meeting with a correction to reflect the NABP annual meeting will be held in April and not May 2003 as previously stated. Mike Merrill seconded the motion with the correction to be noted. Motion unanimously carried.

Regarding citation #1190 issued to Robin Kelso, pharmacy technician; Mike Merrill made a motion to fine the technician \$200.00 and place a letter of reprimand in her file and advise her as to the severity of working as a technician without the required registration. Frank Casabonne seconded the motion. Motion unanimously carried.

Regarding citation # 1189 issued to Barbara Fuchs R.Ph. on the same complaint; Mike Merrill motioned to fine Ms. Fuchs \$50.00 and place a letter of reprimand in her file. The Board stressed that although the PIC is ultimately responsible for verifying the current registration of each technician employed in the pharmacy, the technician application had been signed and dated by Ms. Fuchs but had not been submitted in a timely manner by Ms. Kelso. Frank Casabonne seconded the motion. Motion unanimously carried.

In addressing electronic signatures on prescriptions originating from practitioners' offices the board members reviewed current rules that allow prescriptions to be faxed from the practitioners' offices and application of the Uniform Electronic Transmission Act whereby signatures could be generated electronically from a practitioner's office. The board members asked Mr. Markuson and Mr. Nelson to review NABP's model rules on electronic signatures as well as other states rules addressing electronic prescription transmission, in order for this board to adopt similar rules to address electronic signatures and the electronic connectivity between pharmacists and practitioners.

In the matter of Don Darling R.Ph. and the results of his October 2003 CE audit; Mr. Darling asked the board members to reconsider his continuing education deficiency letter and waive his renewal requirements as outlined in the letter he received. The board approved his submission of a late letter of verification from ISU for 6 live CE credits, plus the 3 additional CE credits accepted in the original audit but all other board requirements would remain applicable. The

Board directed Jan Atkinson, Senior Compliance Officer to review the latest approved submission from Mr. Darling and send him a corrected letter of deficiency with the refigured CE credits and payment amounts due prior to renewal of his 2004-2005-pharmacist license.

Regarding the issue of Telepharmacy and the proposed Telepharmacy Pilot Program; the board members requested a legal opinion from Kent Nelson as to how the board could best move forward in expanding the pilot program to serve rural communities and bring pharmacy services to areas where those services are otherwise not available on a continuous and timely basis. In summarizing existing board regulations, Mr. Nelson stated that the telepharmacy proposal implicates both the allocation of responsibility to each institution's Director of Pharmacy and current regulations addressing access to legend drugs within the hospital pharmacy. According to Mr. Nelson, accomplishing this split of responsibilities would require a change to current rules. Mr. Nelson recommended a temporary rule be drafted in order to allow the two proposed pilot projects to proceed with specific changes to authority and responsibility between the central hospital pharmacy, its Director of Pharmacy and the rural hospital pharmacy, and its Director of Pharmacy. In addition, the temporary rule would need to address the type of access to the rural hospital's drug inventory that would be allowed via automated dispensing machines. This also would require a written agreement between the two hospitals that outlines the relationship between the two and clearly allocates the responsibility and authority. Frank Casabonne made a motion that the board move forward with this pilot program as recommended by counsel. Dwayne Sheffler seconded the motion. Motion unanimously carried.

In reviewing the last board meeting, when the board members discussed a joint request by ISHP and ISPA for the proposal of a temporary rule to increase the ratio of technicians to pharmacists from 2:1 to 3:1, the board members requested an additional clarification of the duties that may be performed by non-licensed pharmacy personnel. The following is the interpretation of the existing rules by the board members and their attorney regarding duties that may be performed by non-licensed and registered pharmacy personnel: (1) Delivery of medications to the patient's home. (2) Adjudicate claims for previously dispensed medications and handle billing questions. When filling a prescription only a pharmacist or registered technician may handle insurance or third party transactions connected with the processing of that prescription. (3) Stock shelves in the pharmacy. (4) Answer the phone. All calls dealing with a prescription must then be immediately directed to a licensed pharmacist or registered technician. No refills or prescription information may be handled by a clerk/cashier. (5) Only a licensed pharmacist or registered technician must do the initial transfer or handing of a prescription to the patient at the pharmacy. (6) A cashier /clerk may only ring up a prescription after the registered technician or licensed pharmacist has completed the initial transaction with the patient. (7) A cashier/clerk may not hand a prescription to a patient at a pharmacy's drive-up window. Only a licensed pharmacist or registered technician may complete the initial transfer or handing of the prescription to the patient. In order to assist inspectors in the identification of individuals working in the pharmacy Frank Casabonne directed the inspectors to issue citations to pharmacy technicians who do not wear required name badges and who do not identify themselves as technicians when answering the phone.

Regarding Rx Network of South Florida, LLC. 1604MS, Findings of Fact, Conclusions of Law and Final Order; Mike Merrill made a motion to revoke their out-of-state mail service pharmacy license. Kitty Gurnsey seconded the motion. Motion unanimously carried.

Regarding the proposed Amended Stipulation and Order for John Letter R.Ph.; Mike Merrill made a motion to reject the Amended Stipulation and proceed to a hearing. Frank Casabonne seconded the motion. Motion unanimously carried.

Regarding the Notice of Intent to Take Default for Richard Cotant R.Ph; Mr. Cotant received the Complaint by registered mail on January 23, 2004 and had twenty-one days in which to respond to the Complaint. Mr. Cotant failed to timely file an answer, response or other notice of intent to defend against the Complaint, and the default is appropriate under Idaho Code Section 67-5242(4). Mike Merrill made a motion to revoke Mr. Cotant's pharmacist license and his Controlled Substance Registration and to notify any other applicable jurisdictions of the revocation. Frank Casabonne seconded the motion. Motion unanimously carried.

In legislation and rule review, board members addressed HB 748, which would amend an existing law relating to residential care with the purpose of specifying a medication policy to govern individual dose systems to be prepared by a licensed nurse. In order to defeat this bill in the Senate, Kitty Gurnsey recommended that all board members sign a letter and have it delivered to the Chairman of the Senate Health and Welfare Committee before the bill is presented in committee. The letter should identify how the existing bill is inconsistent with current Board of Pharmacy statutes and the incorrect information as to the cost to veterans and railroad retirees of \$900,000 a year. Ms. Gurnsey recommended that in lieu of the proposed legislation, concerned parties get together to discuss a possible alternative for solving these medication delivery issues without implementing legislation that is in such direct conflict with current pharmacy statutes.

Future meetings: Annual NABP meeting in Chicago, April 2004, Dr. Silcock, representing Idaho as the voting delegate, Dwayne Sheffler and Richard Markuson to attend. Richard Markuson and Jan Atkinson to give multiple law CE programs in various scheduled locations during April and May. The ISPA Tri-State Convention will be held on June 10-13, 2004 in Coeur D'Alene, ID. The Idaho Board of Pharmacy will hold the next board meeting on June 10, 2004 in conjunction with the convention in Coeur D'Alene.

At 3:26 P.M., Mike Merrill moved to go into Executive Session for matters concerning exempt public records. Chairperson Dr. Marilyn Silcock identified Idaho Code Section 67-2345(d) to authorize the session. Frank Casabonne seconded the motion. Motion unanimously carried. At 3:55 P.M., Mike Merrill moved to come out of Executive Session. Kitty Gurnsey seconded the motion. Motion unanimously carried.

Meeting adjourned at 4 P.M.

Jan Atkinson respectfully submits these minutes of the Idaho State Board of Pharmacy.

Chairman

Vice-Chairman

Member

Member

Member

Executive Director